

Docket No.: 26119.120US1
Serial No. 09/829,439

PATENT

REMARKS/ARGUMENTS

I. Summary of the Office Action

Claims 1-77 are pending in this application. The Examiner rejected claims 18-28, 38-44, 53-59, 65-67, 73-75 and 77-83. The Examiner Withdrew claims 1-17, 29-37, 45-52, 60-64, 68-72 and 76.

The Examiner rejected claims 18-28, 38-44, 53-59, 65-67, 73-75, and 77 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-21 of Bettis et al., U.S. Patent No. 7,016,872 (hereinafter, "Bettis"). The Examiner rejected claims 18-20, 22-28, 38, 40-44, 53, 55-59, 65, 67, 73, 75, and 77-83 under 35 U.S.C. 102(e) as being anticipated by Gatto et al., U.S. Patent No. 6,983,257 (hereinafter, "Gatto"). The Examiner rejected claims 21, 39, 54, 66, and 74 under 35 U.S.C. 103(a) as being unpatentable over Gatto. The Examiner indicated that claims 22-28, 40-44, 55-59, 67, and 75 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

II. Summary of Applicants Reply

Applicants respectfully submit that no new matter has been introduced into the subject application. Specifically, the amendment to independent claims 18, 38, 53, 65, 73, and 77 and dependent claim 24 are supported by the original specification and drawings, for example, as

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discussed below in greater detail. Further, new claims 84-102 are supported by the original specification and drawings, for example, as discussed below in greater detail.

The Examiner's rejections are respectfully traversed below.

Reconsideration of the present application is respectfully requested.

III. The Rejection On The Ground of Nonstatutory Obviousness-type Double Patenting

The Examiner rejected claims 18-28, 38-44, 53-59, 65-67, 73-75, and 77 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-20 of Bettis. Applicants has included a Terminal Disclaimer resolving the nonstatutory obviousness-type double patenting rejection.

IV. Allowable Subject Matter

The Examiner indicated that claims 22-28, 40-44, 55-59, 67, and 75 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Accordingly, as specified below, applicant has included the limitations of these allowable claims into the base claim and intervening claims.

For example, as proposed, independent claim 18 includes, at least, the limitations of allowable dependent claim 22; independent claim 38 includes, at least, the limitations of allowable dependent claim 40; independent claim 53 includes, at least, the limitations of allowable dependent claim 55; independent claim 65 includes, at least, the limitations of

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allowable dependent claim 67; and independent claim 73 includes, at least, the limitations of allowable dependent claim 75.

Further applicant proposes new claims 84-96. Each proposed new claim includes, at least, the limitations of a previously presented independent claim and an allowable dependent claim. For example, new independent claim 84 includes, at least, the limitations of previously presented independent claim 18 and allowable dependent claim 23; new independent claim 86 includes, at least, the limitations of previously presented independent claim 18 and allowable dependent claim 25; new independent claim 90 includes, at least, the limitations of previously presented independent claim 38 and allowable dependent claim 41; and new independent claim 93 includes, at least, the limitations of previously presented independent claim 53 and allowable dependent claim 56.

Applicant proposes new dependent claims including, at least, the limitations of at least one of the previous new independent claims and an allowable dependent claim. For example, applicant proposes new dependent claim 85 including, at least, the limitations of new independent claim 84 and allowable dependent claim 24; new dependent claims 87-89 including, at least, the limitations of new independent claim 86 and allowable dependent claims 26-28; new dependent claims 91-92 including, at least, the limitations of new independent claim 90 and allowable dependent claims 42 and 44; and new dependent claims 94-96 including, at least, the limitations of new independent claim 93 and allowable dependent claims 57-59.

Further, applicant proposes amended independent claim 77 to include the limitations of allowable claim 22. Applicant proposes amended new independent claim 97 to include, at least,

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the limitations of independent claim 77 and allowable dependent claim 23 and amended new independent claim 99 to include, at least, the limitations of independent claim 77 and allowable dependent claim 25. Further, applicant proposes new dependent claim 98 including, at least, the limitations of new independent claim 97 and allowable claim 24 and applicant proposes new dependent claims 100-102 including, at least, the limitations of new independent claim 99 and allowable dependent claims 26, 27, and 28.

All of applicants amended and new claims include, at least, subject matter which the Examiner stated was allowable. Accordingly, for at least these reasons, applicants respectfully request that this rejection be withdrawn.

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CONCLUSION

Applicants respectfully submit that, as described above, the cited prior art does not show or suggest the combination of features recited in the claims. Applicants do not concede that the cited prior art shows any of the elements recited in the claims. However, Applicants have provided specific examples of elements in the claims that are clearly not present in the cited prior art.

In addition, each of the combination of limitations recited in the claims includes additional limitations not shown or suggested by the prior art. Therefore, for these reasons as well, Applicants respectfully request withdrawal of the rejection.

Further, there is no motivation shown to combine the prior art cited by the Examiner, and even if these teachings of the prior art are combined, the combination of elements of claims, when each is interpreted as a whole, is not disclosed in the Examiner's proposed combination. As the combination of elements in each of the claims is not disclosed, Applicants respectfully request that the Examiner withdraw the rejections.

Applicants strongly emphasize that one reviewing the prosecution history should not interpret any of the examples Applicants have described herein in connection with distinguishing

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over the prior art as limiting to those specific features in isolation. Rather, Applicants assert that it is the combination of elements recited in each of the claims, when each claim is interpreted as a whole, which is patentable. Applicants have emphasized certain features in the claims as clearly not present in the cited references, as discussed above. However, Applicants do not concede that other features in the claims are found in the prior art. Rather, for the sake of simplicity, Applicants are providing examples of why the claims described above are distinguishable over the cited prior art.

Applicants wish to clarify for the record, if necessary, that the claims have been amended to expedite prosecution. Moreover, Applicants reserve the right to pursue the original subject matter recited in the present claims in a continuation application.

Any narrowing amendments made to the claims in the present Amendment are not to be construed as a surrender of any subject matter between the original claims and the present claims; rather merely Applicants' best attempt at providing one or more definitions of what the Applicants believe to be suitable patent protection. In addition, the present claims provide the intended scope of protection that Applicants are seeking for this application. Therefore, no estoppel should be presumed, and Applicants' claims are intended to include a scope of protection under the Doctrine of Equivalents.

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Further, Applicants hereby retract any arguments and/or statements made during prosecution that were rejected by the Examiner during prosecution and/or that were unnecessary to obtain allowance, and only maintains the arguments that persuaded the Examiner with respect to the allowability of the patent claims, as one of ordinary skill would understand from a review of the prosecution history. That is, Applicants specifically retract statements that one of ordinary skill would recognize from reading the file history were not necessary, not used and/or were rejected by the Examiner in allowing the patent application.

For all the reasons advanced above, Applicants respectfully submit that the rejections have been overcome and should be withdrawn.

For all the reasons advanced above, Applicants respectfully submit that the Application is in condition for allowance, and that such action is earnestly solicited.

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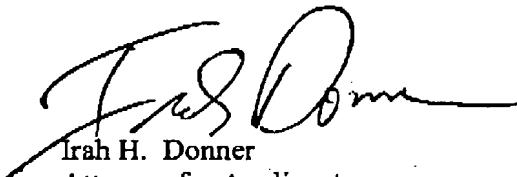
AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees, which may be required for this Amendment, or credit any overpayment to Deposit Account No. 08-0219

In the event that an Extension of Time is required, or which may be required in addition to that requested in a petition for an Extension of Time, the Commissioner is requested to grant a petition for that Extension of Time which is required to make this response timely and is hereby authorized to charge any fee for such an Extension of Time or credit any overpayment for an Extension of Time to Deposit Account No. 08-0219.

Respectfully submitted,

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